

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

ROBERT McKEAN,

Plaintiff,

Civil Action No.

-vs-

Civil Action

CITY OF ASBURY PARK, MAYOR JOHN
MOOR and MICHAEL CAPABIANCO,

Defendants.

NOTICE OF REMOVAL
(28 U.S.C. § 1441(a))

TO: William T. Walsh
Clerk of the United States District Court
Martin Luther King, Jr. Federal Building and United States Courthouse
50 Walnut Street
Newark, New Jersey 07101

ON NOTICE TO: Patricia A. Barasch, Esquire
Richard M. Schall, Esquire
Schall & Barasch, LLC
Moorestown Office Center
110 Marter Avenue, Suite 105
Moorestown, NJ 08057
Attorneys for Plaintiff

PLEASE TAKE NOTICE in accordance with 28 U.S.C. §§ 1441-1451, Defendants, City of Asbury Park, Mayor John Moor and Michael Capabianco (“Defendants”), by their attorneys, Florio Perrucci Steinhardt & Cappelli, LLC, hereby give notice that they have removed the above-entitled case from the Superior Court of New Jersey, Monmouth County, to the United States District Court for the District of New Jersey. In support of this notice, Defendants state the following:

1. On or about February 7, 2019, Plaintiff, Robert McKeon (“Plaintiff”) filed a Complaint in the Superior Court of New Jersey, Law Division, Monmouth County, Docket No. MON-L0537-19 (“Complaint”) against Defendants alleging a claim under the Family and

Medical Leave Act, 29 U.S.C. §2601 et seq., as well as under New Jersey State Law. This action is still pending in state court.

2. The United States District Court has original jurisdiction of the above-captioned civil action pursuant to 28 U.S.C. §1331 because at least one of the causes of action brought by the Plaintiff involves a federal question.

3. Pursuant to 28 U.S.C. §1446(a), copies of the Summons and Complaint to the Defendants were accepted by their attorney, Teresa M. Lentini, Esquire on March 5, 2019 and are attached hereto as Exhibit "A". The documents which comprise Exhibit A constitute all process, pleadings, and orders received by the Defendants to date.

4. The Civil Action is one of which this Court has federal question jurisdiction pursuant to 28 U.S.C. § 1331 and removal jurisdiction pursuant 28 U.S.C. §1441, in that Plaintiff asserts a claim for violation of the Family and Medical Leave Act, 29 U.S.C. §2601 et seq. (See Exhibit A, Plaintiff's Complaint, ¶¶ 59-63)

5. No previous petition or notice has been made for the relief sought herein.

6. A Notice of Filing the Notice of Removal to the United States District Court for the District of New Jersey, along with a copy of the within Notice, will be filed with the Clerk of the Superior Court of New Jersey in Monmouth County. (See Exhibit B, Notice of Filing the Notice of Removal)

7. Additionally, a copy of both Notices will be served upon counsel for Plaintiff.

8. County of Monmouth, New Jersey is one of the counties comprising the Trenton Division of the United Stated District Court of New Jersey. Since this action was original filed in the Superior Court of New Jersey, County of Monmouth, Law Division, venue is proper in the

Trenton Division of the United States District Court of New Jersey, in accordance with 28 U.S.C. § 1441(a).

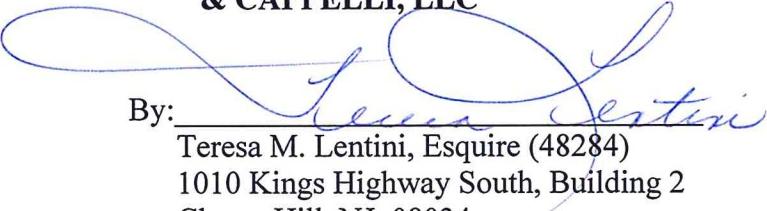
9. All of the defendants have consented to removal.

WHEREFORE, Defendants City of Asbury Park, Mayor John Moor and Michael Capabianco, respectfully gives notice that the above-entitled matter is removed to the United States District Court for the District of New Jersey from the Superior Court of New Jersey, Law Division, Monmouth County.

Dated: March 14, 2019

**FLORIO PERRUCCI STEINHARDT
& CAPPELLI, LLC**

By:


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*Attorneys for Defendants, City of Asbury Park,
Mayor John Moor and Michael Capabianco*